

---



---

**Rules of  
Department of Economic  
Development  
Division 80—Economic Development Programs  
Chapter 2—Municipal Bonds for  
Industrial Development**

<b>Title</b>	<b>Page</b>
4 CSR 80-2.010 Municipal Bonding for Industrial Development .....	3
4 CSR 80-2.020 Approval of Plan to Issue Municipal Bonds for Industrial Development Projects .....	3
4 CSR 80-2.030 Preparation of the Lease Agreement .....	4

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 80—Economic Development Programs Chapter 2—Municipal Bonds for Industrial Development

4 CSR 80-2.010 Municipal Bonding for Industrial Development

PURPOSE: The Economic Development Programs, Department of Economic Development have the responsibility to approve or disapprove applications for municipal industrial development bonds. This rule establishes guidelines to assist municipalities in the implementation of industrial bonding programs.

(1) Municipal industrial development bonds are bonds issued and sold by a municipality to finance an industrial development project. An industrial development project is an industrial plant which may be a structure or a group of structures which are used as a factory; assembly plant; manufacturing plant; processing plant, when the form of a product is changed; fabricating plant and warehouse buildings incidental to industrial development projects.

(2) Communities issuing industrial development bonds having a population less than eight hundred (800) shall locate the industrial development project in the corporate limits of the municipality.

(3) Funds may be used to purchase, construct, extend or improve industrial plants and may include the purchasing of land, fixtures, machinery and buildings.

(4) Proceeds may be used to pay development and financing costs and may include engineering, architectural, legal and underwriting expenses.

(5) General obligation bonds may be used to finance industrial development projects.

(A) Any municipality may issue general obligation bonds for industrial development projects.

(B) General obligation bonds issued for industrial development projects shall be secured by the taxing power of the municipality and may be issued in an amount up to ten percent (10%) of the assessed valuation of the municipality's taxable tangible property.

1. General obligation bonds which are sold at public sales shall not bear interest at a rate exceeding eight percent (8%) a year. General obligation bonds issued shall be sold

for no less than ninety-five percent (95%) of par value.

2. General obligation bonds which are not sold at public sales shall not bear interest at a rate exceeding six percent (6%) a year. General obligation bonds issued shall be sold for no less than ninety-five percent (95%) of par value.

3. General obligation bonds shall not be issued for longer than twenty (20) years.

(6) Revenue bonds may be used to finance industrial development projects by any municipality and may be issued in any amount and for any period.

(A) Revenue bonds shall be secured by income derived from the rental of the industrial plant and the income must be sufficient to meet the principle and interest requirements of the bond(s).

(B) Revenue bonds, whether sold at public or private sales shall not bear interest at a rate exceeding eight percent (8%) a year. Revenue bonds issued shall be sold for no less than ninety-five percent (95%) of par value.

Auth: sections 100.010—100.200, RSMo (1986)\*. Original rule filed Dec. 30, 1975, effective Jan. 9, 1976.

\*Original authority: 100.010, RSMo (1961), amended 1963 and 1976; 100.020—100.040, RSMo (1961); 100.050, RSMo (1961), amended 1983; 100.090—100.100, RSMo (1961), amended 1976; 100.105, RSMo (1983); 100.120, RSMo (1961), amended 1978 and 1983; 100.130, RSMo (1961); 100.155, RSMo (1981), amended 1983; 100.160—100.170, RSMo (1961); 100.180, RSMo (1961), amended 1963 and 1983; 100.190, RSMo (1961), amended 1963, 1976 and 1983; 100.200, RSMo (1967), amended 1983.

St. Louis County v. Village of Champ, 438 SW2d 205 (Mo. App. 1969). Public policy of the state now favors more ambitious industrial development by municipalities.

Many municipalities, particularly smaller and medium size cities and towns, have successfully used the revenue bond industrial development scheme to effectively compete in attracting manufacturing and industrial development which had theretofore been unfeasible.

Municipal annexation must be reasonable, necessary or convenient and where sole purpose is to finance industrial development by revenue bond, industrial development scheme, annexation is not reasonable, although such is not alone objectionable where other valid reasons exist.

Wring v. City of Jefferson, 413 SW2d 292 (Mo. App. 1967). Municipality may sell facility acquired with proceeds of industrial revenue bonds.

Legislative provisions requiring public works to be awarded upon a public letting to the lowest responsible bidder are intended to secure unrestricted competition among bidders, eliminate fraud and favoritism and avoid undue and excessive costs which would otherwise be imposed on taxpayers.

Ordinarily, statute requiring competitive bidding on public improvements is applicable only to contracts where the city itself assures an obligation or indebtedness.

Third-class municipality not required to let contracts by competitive bidding to lowest and best bidder where project financed by industrial revenue bonds.

Op. Atty. Gen. No. 134, Maddox, 2-8-71. A municipality which issues and sells industrial development revenue bonds incurs no liability to pay for the revenue bonds other than the responsibility to apply the revenue received from the project for which the bonds were sold to retiring the bonds.

Op. Atty. Gen. No. 380, Jeffrey, 11-14-68. A city of the fourth class under a lease agreement pursuant to industrial development revenue bond issues need not follow the procedure of competitive bidding for the construction of the proposed facility thereunder, and that under section 100.200, RSMo (1969), any purchase options entered into in compliance with the statutes and approved by the Division of Commerce and Industrial Development need not be further approved at the time of their actual exercise.

4 CSR 80-2.020 Approval of Plan to Issue Municipal Bonds for Industrial Development Projects

PURPOSE: Municipalities proposing to finance industrial development projects through general obligation or revenue bonding programs are required under section 100.050, RSMo to make application for approval with the division. This rule establishes procedures and identifies requirements for filing an application for municipal industrial bonding projects.



(1) The division shall promptly examine the application and make an investigation. The division shall approve the project when it finds that the project—

(A) Will further the economic development and increase employment in the municipality and the state;

(B) Will further the general welfare of the municipality and the state; and

(C) Is economically feasible and will not become a burden to the taxpayers of the municipality.

(2) Municipalities issuing bonds for industrial development projects shall make application to the division for approval prior to the issuance of the bonds.

(A) The application shall consist of a statement outlining a plan for industrial development and the municipality shall submit eleven (11) copies to the division.

1. The plan shall provide a description of the project and shall identify the specific use of the bond's proceeds; the type and size of the development and the product(s) to be manufactured, processed or fabricated.

A. When the industrial development project involves the relocation of an industrial plant from one (1) community in the state to another, the plan for industrial development shall include the reasons for the relocation and shall identify the purpose of relocating, the number of jobs to be lost because of the relocation and ways in which the relocation will further economic development in the proposed area.

B. The statement shall also include the reasons for the facility not being located at the present location and any other facts which adversely affect the economic development of the area from which the facility is to be moved.

2. The plan shall estimate the total cost of the project including any funds from other sources.

3. The plan shall identify the type(s) of bonds to be issued and the total amount of each type of bond. When the terms of the lease do not provide an amount sufficient to retire general obligation bonds, the plan shall clearly state the reasons for the insufficiency.

4. The plan shall include the terms of the lease.

5. Attached to the plan shall be a copy of the city council's minutes, or a resolution of the board, showing the approval of the industrial development project.

6. A statement shall be included showing the valuation of the taxable property in the municipality for the most current year, the percent of taxes collected to total property taxes due for the five (5) most current years and a list of all municipal bonds currently outstanding including the type of bonds, purpose

of bond and the value of each. Shown separately shall be a list of all outstanding general obligation bonds issued for industrial development purposes and the total amount outstanding.

7. A statement shall be provided identifying the product the company manufactures, processes or fabricates; the extent of the company's operations and copies of the company's financial statements for the most current quarter and three (3) years immediately preceding. When the general obligation bonds are to be issued, the company's most current financial statement shall be fully certified by a certified public accountant. When the lease is to be guaranteed, these requirements shall be included in the plan and provided by the guarantor.

8. The plan shall include a list of all security exchange commission filings by the company for the three (3) most current years.

9. The plan shall conclude with a request for approval of the project, dated, signed and shall be accompanied by the proposed lease.

*Auth: sections 100.040—100.060, RSMo (1986). \*Original rule filed Dec. 30, 1975, effective Jan. 9, 1976.*

*\*Original authority: 100.040, RSMo (1961); 100.050, RSMo (1961), amended 1983; 100.060, RSMo (1961), amended 1976, repealed 1983.*

**St. Louis County v. Village of Champ**, 438 SW2d 205 (Mo. App. 1969). *Public policy of the state now favors more ambitious industrial development by municipalities.*

*Many municipalities, particularly smaller and medium size cities and towns, have successfully used the revenue bond industrial development scheme to effectively compete in attracting manufacturing and industrial development which had previously been unfeasible.*

*Municipal annexation must be reasonable, necessary or convenient and where sole purpose is to finance industrial development by revenue bond industrial development scheme, annexation is not reasonable, although such is not alone objectionable where other valid reasons exist.*

**Wring v. City of Jefferson**, 413 SW2d 292 (Mo. App. 1967). *Municipality may sell facility acquired with proceeds of industrial revenue bonds.*

*Legislative provisions requiring public works to be awarded upon a public letting to the lowest responsible bidder are intended to secure unrestricted competition among bidders, eliminate fraud and*

*favoritism and avoid undue and excessive costs which would otherwise be imposed on taxpayers.*

*Ordinarily, statute requiring competitive bidding on public improvements is applicable only to contracts where the city itself assures an obligation or indebtedness.*

*A third-class municipality is not required to let contracts by competitive bidding to lowest and best bidder where the project is financed by industrial revenue bonds.*

**Op. Atty. Gen. No. 134, Maddox, 2-8-71.** *A municipality which issues and sells industrial development revenue bonds incurs no liability to pay for the revenue bonds other than the responsibility to apply the revenue received from the project for which the bonds were sold to retiring the bonds.*

**Op. Atty. Gen. No. 380, Jeffrey, 11-14-68.** *A city of the fourth class under a lease agreement pursuant to industrial development revenue bond issues need not follow the procedure of competitive bidding for the construction of the proposed facility thereunder, and that under section 100.200, RSMo (1969), any purchase options entered into in compliance with the statutes and approved by the Division of Commerce and Industrial Development need not be further approved at the time of their actual exercise.*

**4 CSR 80-2.030 Preparation of the Lease Agreement**

**PURPOSE:** *A proposed lease agreement between the municipality and the tentative lessee is required to be submitted to the division as an integral part of the application. This rule provides guidelines to assist municipalities in the construction of the lease agreement.*

(1) The terms of the proposed lease shall have been approved by the municipality and company before submission to the division.

(2) No amendment to the lease agreement shall be made until the amendment has been approved by the division and the governing body of the municipality.

*Auth: section 100.050(4), RSMo (1986)\*. Original rule filed Dec. 30, 1975, effective Jan. 9, 1976.*

*\*Original authority 1961, amended 1983.*

*Op. Atty. Gen. No. 12, Schneider, 6-22-64. A municipality which owns manufacturing or industrial development scheme may not require a tenant thereof facility developed by revenue bond industrial as part of the leasing agreement, to pay monies in lieu of taxes to another taxing body.*